



## **Texas Department of Insurance**

### **Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

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## **MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**

### **GENERAL INFORMATION**

**Requestor Name**

COUNTY OF TRAVIS STAR FLIGHT

**Respondent Name**

NEW HAMPSHIRE INSURANCE COMPANY

**MFDR Tracking Number**

M4-14-0127-01

**Carrier's Austin Representative Box**

Box Number 19

**MFDR Date Received**

September 13, 2013

### **REQUESTOR'S POSITION SUMMARY**

**Requestor's Position Summary:** "We were not provided with accurate insurance information until a few days before the timely filing period for the state of Texas expired. The timely filing period of 95 days from the date of service expired on May 8, 2013. We did submit the claim within that time frame, but it seems it was not received."

**Amount in Dispute:** \$13,478.21

### **RESPONDENT'S POSITION SUMMARY**

**Respondent's Position Summary:** "The carrier denied the \$13,478.21 charge for the helicopter flight as the bill was not received by the carrier until after the 95 day deadline provided by the Texas Labor Code, Section 48.0272, nor do the circumstances for late submission meet any of the exceptions to the 95 day requirement to submit the bill for services."

**Response Submitted by:** AIG Primary Claims Home Office Workers' Compensation

### **SUMMARY OF FINDINGS**

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
February 2, 2013	Air Ambulance Services	\$13,478.21	\$0.00

### **FINDINGS AND DECISION**

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

**Background**

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §133.20 sets out medical bill submission procedures for health care providers.
3. 28 Texas Administrative Code §134.1 sets forth general provisions related to medical reimbursement.
4. Texas Labor Code §408.027 sets out the rules for timely submission of claims by health care providers.
5. Texas Labor Code §408.0272 provides for certain exceptions to untimely submission of a medical bill.
6. Texas Labor Code §413.011 sets forth provisions regarding reimbursement policies and guidelines.

7. The services in dispute were reduced/denied by the respondent with the following reason codes:
  - 29 – The time limit for filing has expired.
  - Date (s) of service exceed (95) day time period for submission per RULE 408.027 and Bulletin No. B-0037-05A

### **Issues**

1. What is the timely filing deadline applicable to the medical bills for the services in this dispute?
2. Did the requestor forfeit the right to reimbursement for the services in dispute
3. Did the requestor establish that the payment amount sought is a fair and reasonable rate of reimbursement?

### **Findings**

1. The insurance carrier denied the disputed services with claim adjustment reason code: 29 – “The time limit for filing has expired.”; with additional notation that “Date (s) of service exceed (95) day time period for submission per RULE 408.027 and Bulletin No. B-0037-05A.” 28 Texas Administrative Code §133.20(b) requires that, except as provided in Texas Labor Code §408.0272, “a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided.” The date of service is February 2, 2013. The ninety-fifth day following the date of service is May 8, 2013. No documentation was found to support that any of the exceptions described in Texas Labor Code §408.0272 apply to the services in this dispute. For that reason, the health care provider was required to submit the medical bill to the correct insurance carrier not later than May 8, 2013.
2. Texas Labor Code §408.027(a) states that “Failure by the health care provider to timely submit a claim for payment constitutes a forfeiture of the provider's right to reimbursement for that claim for payment.” Review of the submitted information finds some documentation to support that the health care provider discovered the correct billing information on May 6, 2013. The requestor provided a printout of an activity log containing dates and contemporaneously recorded memoranda regarding actions and communications related to the patient's account. The requestor also provided a copy of a medical bill generated on and dated May 7, 2013. No documentation was presented to indicate that the insurance carrier received this bill. The requestor did not present a copy of a fax confirmation cover sheet, return mail receipt, or other evidence to support the date sent to the requestor. And, whereas the activity log has a notation confirming when the February 27<sup>th</sup> bill had been mailed to the employer, there is no such notation for the May 7<sup>th</sup> bill. The activity log indicates that the information was updated on May 6, but does not subsequently indicate that a bill was mailed. Based on the information submitted to MFDR, the Division finds that the requestor has failed to support that the medical bill was submitted to the insurance carrier prior to the 95th day after the date the services were provided. The insurance carrier's denial reason is therefore supported. Consequently, the requestor has forfeited the right to reimbursement for the disputed services due to untimely submission of the medical bill.
3. Additionally, the services in dispute are air ambulance transportation services for which the Division has not established a medical fee guideline. No documentation was found to support a negotiated contract between the parties or that the health care was provided through a workers' compensation health care network. Reimbursement is therefore subject to the general medical reimbursement provisions of 28 Texas Administrative Code §134.1(e), which requires that in the absence of an applicable fee guideline or a negotiated contract, medical reimbursement for health care not provided through a workers' compensation health care network shall be made in accordance with a fair and reasonable reimbursement amount as specified in §134.1(f).

28 Texas Administrative Code §134.1(f) requires that:

Fair and reasonable reimbursement shall:

- (1) be consistent with the criteria of Labor Code §413.011;
- (2) ensure that similar procedures provided in similar circumstances receive similar reimbursement; and
- (3) be based on nationally recognized published studies, published Division medical dispute decisions, and/or values assigned for services involving similar work and resource commitments, if available.

The Texas Supreme Court has summarized the statutory standards and criteria applicable to “fair and reasonable” fee determinations as requiring “methodologies that determine fair and reasonable medical fees, ensure quality medical care to injured workers, and achieve effective cost control.” *Texas Workers' Compensation Commission v. Patient Advocates of Texas*, 136 South Western Reporter Third 643, 656 (Texas 2004).

Additionally, the Third Court of Appeals has held, in *All Saints Health System v. Texas Workers' Compensation Commission*, 125 South Western Reporter Third 96, 104 (Texas Appeals – Austin 2003, petition for review denied), that “each . . . reimbursement should be evaluated according to [Texas Labor Code] section 413.011(d)'s definition of ‘fair and reasonable’ fee guidelines as implemented by Rule 134.1 for case-by-case determinations.”

Texas Labor Code §413.011(d) requires that:

Fee guidelines must be fair and reasonable and designed to ensure the quality of medical care and to achieve effective medical cost control. The guidelines may not provide for payment of a fee in excess of the fee charged for similar treatment of an injured individual of an equivalent standard of living and paid by that individual or by someone acting on that individual's behalf. The commissioner shall consider the increased security of payment afforded by this subtitle in establishing the fee guidelines.

28 Texas Administrative Code §133.307(c)(2)(O), requires the requestor to provide “documentation that discusses, demonstrates, and justifies that the payment amount being sought is a fair and reasonable rate of reimbursement in accordance with §134.1 . . . when the dispute involves health care for which the division has not established a maximum allowable reimbursement (MAR) or reimbursement rate, as applicable.”

Review of the submitted documentation finds that:

- The requestor has not articulated a methodology under which fair and reasonable reimbursement should be calculated.
- The requestor does not discuss or explain how payment of the amount sought would result in a fair and reasonable reimbursement for the services in dispute.
- The requestor did not submit documentation to support that payment of the amount sought is a fair and reasonable rate of reimbursement for the services in dispute.
- The requestor did not submit nationally recognized published studies or documentation of values assigned for services involving similar work and resource commitments to support the requested reimbursement.
- The requestor did not support that payment of the requested amount would satisfy the requirements of 28 Texas Administrative Code §134.1.

The request for additional reimbursement is not supported. Thorough review of the submitted documentation finds that the requestor has not demonstrated or justified that payment of the amount sought would be a fair and reasonable rate of reimbursement for the services in dispute. Additional payment cannot be recommended.

### **Conclusion**

The requestor did not discuss, demonstrate, or justify that the payment amount sought is a fair and reasonable rate of reimbursement in accordance with §134.1. Consequently, the requestor has failed to establish that reimbursement is due. Additionally, the requestor did not support that the medical bill was submitted to the insurance carrier prior to the 95<sup>th</sup> day after the date of service, and has therefore forfeited the right to reimbursement for the disputed services due to untimely submission of the medical bill. As a result, the amount ordered is \$0.00.

### ***ORDER***

Based on the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

### **Authorized Signature**

_____ Signature	Grayson Richardson Medical Fee Dispute Resolution Officer	_____ April 17, 2015 Date
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## ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, 37 *Texas Register* 3833, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** along with any other required information specified in 28 Texas Administrative Code §141.1(d).

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812**

Health care providers may verify workers' compensation insurance coverage and contact information from our website at [www.tdi.texas.gov/wc/employer/coverage.html](http://www.tdi.texas.gov/wc/employer/coverage.html) or for additional assistance please call the TDI-DWC Insurance Coverage section at **800-372-7713**.